
**Introduced by Committee on Local Government (Senators
Torlakson (Chair), Ackerman, Hollingsworth, Machado,
Margett, Perata, and Soto)**

February 20, 2003

An act to amend Sections 10122, 10123, 10301, 10353, and 10366 of, to add Part 4 (commencing with Section 8590) to Division 10 of, and to repeal Sections 10310 and 10311 of, the Streets and Highways Code, relating to local agency assessments.

LEGISLATIVE COUNSEL'S DIGEST

SB 392, as introduced, Committee on Local Government. Local agency assessments.

Existing statutory law provides notice, protest, and hearing procedures for the levying of new or increased assessments by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution. These statutory procedures supersede other statutory provisions applicable to the levying of these assessments.

This bill would conform certain provisions of the Improvement Bond Act of 1915 and the Municipal Improvement Act of 1913 to the statutory procedures for levying assessments pursuant to Articles XIII C and XIII D of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 4 (commencing with Section 8590) is
2 added to Division 10 of the Streets and Highways Code, to read:
3

PART 4. NOTICE AND HEARING

8590. If new or increased assessments are proposed, the legislative body shall comply with the notice, protest, and hearing procedures set forth in Section 53753 of the Government Code.

SEC. 2. Section 10122 of the Streets and Highways Code is amended to read:

10122. The measure to be voted on shall include a description of the improvements proposed, a map showing the territory to be benefited by the proposed improvements and proposed to be subject to assessments, and an estimate of the costs of the improvements proposed. The measure to be voted on shall be approved by the legislative body after holding a public hearing. *If new or increased assessments are proposed, the legislative body shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.*

SEC. 3. Section 10123 of the Streets and Highways Code is amended to read:

10123. ~~The proposition is approved if a majority of the voters voting approve the measure.~~

If the measure is approved by the voters, assessments shall be levied and collected pursuant to Chapter 5 (commencing with Section 10400). The legislative body may pay the cost of the work described in Section 10112 prior to the collection of assessments.

Any assessment imposed pursuant to this section may be collected in installments over a period not to exceed five years.

SEC. 4. Section 10301 of the Streets and Highways Code is amended to read:

10301. After passing on the report, the legislative body shall by resolution appoint the time and place for hearing protests to the proposed assessment ~~and shall cause notice of that hearing and a public meeting required by Section 54954.6 of the Government Code to be mailed as provided in subdivision (c) of that section.~~

If new or increased assessments are proposed, the legislative body shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 5. Section 10310 of the Streets and Highways Code is repealed.

~~10310. After the legislative body passes on the report pursuant to Section 10301, any interested person may object to the~~

~~proposed improvement, the extent of the assessment district, or to the proposed assessment by filing a written protest with the clerk of the legislative body at or before the time set for the hearing. The protest shall contain a description of the property in which each signer thereof is interested sufficient to identify the property, and, if the signers are not shown on the last equalized assessment roll as the owners of the property, the protest shall contain or be accompanied by written evidence that the signers are the owners of the property. The clerk shall endorse on each protest the date of its receipt, and, at the time appointed for the hearing, the clerk shall present to the legislative body all protests filed with him or her.~~

SEC. 6. Section 10311 of the Streets and Highways Code is repealed.

~~10311. If the protest is against the proposed improvement and the legislative body finds that the protest is made by the owners of more than one-half of the area of the land to be assessed for the improvements, and protests are not withdrawn so as to reduce the protests to less than a majority, no further proceedings shall be taken for a period of one year from the date of the decision of the legislative body on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the legislative body finding that the public health and safety require that the improvements be made. The determination of the legislative body shall be final and conclusive. Any person making a protest may withdraw the protest, in writing, at any time prior to the conclusion of the protest hearing. The legislative body may confirm, modify, or correct the proposed assessment.~~

SEC. 7. Section 10353 of the Streets and Highways Code is amended to read:

10353. Before ordering any changes made, other than as provided in Section 10352, the legislative body shall adopt a resolution briefly describing the changes proposed to be made, stating the amount of the estimated increase or decrease in the cost of the improvement by reason of the proposed changes and giving notice of a time and place when and where any interested person having any objection to the changes proposed to be made may appear before the legislative body and show cause why the changes should not be ordered. The resolution shall also contain the name and telephone number of a local department or agency designated by the legislative body to answer inquiries regarding the hearing

1 proceedings. The resolution may describe the changes by referring
2 to maps, plats, plans, profiles, detailed drawings, or specifications
3 on file in the office of the clerk of the legislative body or engineer,
4 which shall indicate the changes proposed to be made and which
5 shall govern for all details thereof. The resolution shall be
6 published pursuant to Section 6061 of the Government Code, at
7 least 10 days prior to the date of the hearing. *If new or increased*
8 *assessments are proposed, the legislative body shall comply with*
9 *the notice, protest, and hearing procedures in Section 53753 of the*
10 *Government Code.*

11 SEC. 8. Section 10366 of the Streets and Highways Code is
12 amended to read:

13 10366. (a) For purposes of proceeding under this chapter, the
14 notice shall contain the following elements—~~instead of those~~
15 ~~specified in Section 10307:~~

16 ~~(a)~~

17 (1) A statement of the time, place, and purpose of the hearing
18 on the resolution of intention and report.

19 ~~(b)~~

20 (2) A statement of the total estimated cost of the proposed
21 improvement and of the maximum cost of the improvement.

22 ~~(c)~~

23 (3) The estimated and maximum amounts, as shown by the
24 report, to be assessed against the particular parcel covered by the
25 notice.

26 ~~(d)~~

27 (4) A statement that any person interested may file a protest in
28 writing as provided in this division.

29 (b) *If new or increased assessments are proposed, the*
30 *legislative body shall comply with the notice, protest, and hearing*
31 *procedures in Section 53753 of the Government Code.*

